

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ARKEEM EVANS,

Plaintiff,

v.

CORTER, *et al.*,

Defendants.

Case No. 2:22-cv-01377-JDP (PC)

FINDINGS AND RECOMMENDATIONS
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE AND FAILURE
TO COMPLY WITH COURT ORDERS

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On October 4, 2022, I screened plaintiff's complaint and notified him that it alleged cognizable Eighth Amendment excessive force claims against defendants Corter and Martin. I notified him that its other claims were not viable. ECF No. 8. I gave plaintiff thirty days to file an amended complaint or to provide notice to the court of his intent to stand by his current complaint and to proceed only with his Eighth Amendment excessive force claims against defendants Corter and Martin. *Id.* at 3-4. Plaintiff did not timely file either an amended complaint or a notice of election to proceed on the cognizable claims. Accordingly, on December 8, 2022, I ordered him to show cause within twenty-one days why this action should not be dismissed. ECF No. 9. I notified him that if he wished to continue with this action he must file, within twenty-one days, either an amended complaint or a notice of election stating that he wishes to proceed only with his Eighth Amendment excessive force claims against defendants Corter and Martin. I also warned him that failure to comply with the order would result in a

1 recommendation that this action be dismissed. *Id.*

2 The deadline has passed, and plaintiff has not filed an amended complaint or otherwise
3 responded to the December 8, 2022 order. Accordingly, it is hereby ORDERED that that the
4 Clerk of Court shall randomly assign a United States District Judge to this case.

5 Further, it is hereby RECOMMENDED that:

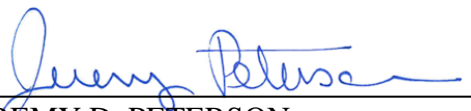
6 1. This action be dismissed for failure to prosecute and failure to comply with court
7 orders, for the reasons set forth in the December 8, 2022 order.

8 2. The Clerk of Court be directed to close the case.

9 I submit these findings and recommendations to the district judge under 28 U.S.C.
10 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
11 Eastern District of California. The parties may, within 14 days of the service of the findings and
12 recommendations, file written objections to the findings and recommendations with the court.
13 Such objections should be captioned “Objections to Magistrate Judge’s Findings and
14 Recommendations.” The district judge will review the findings and recommendations under 28
15 U.S.C. § 636(b)(1)(C).

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17 IT IS SO ORDERED.

18 Dated: January 20, 2023

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20 JEREMY D. PETERSON
21 UNITED STATES MAGISTRATE JUDGE
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